

Message Text

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TAGS: CPRS, PFOR, AR

SUBJECT: EXTRADITION - LEGAL REPRESENTATION

REF STATE 20890

1. CONSUL GENERAL AND NARCOTICS COORDINATOR HAVE MADE A BROAD REVIEW OF THE EXTRADITION PROBLEM WITH DIRECTOR GENERAL OF LEGAL AFFAIRS HORACIO GONI, WHO HANDLES EXTRADITION IN THE MINISTRY OF FOREIGN AFFAIRS, WHOSE VIEWS ARE AS FOLLOWS:

A. WHEN INFORMED THAT THE DEPARTMENT OF STATE AND JUSTICE DID NOT BELIEVE IT NECESSARY TO HIRE PRIVATE COUNSEL TO REPRESENT USG IN ARGENTINE COURTS, GONI EXPRESSED SOME SURPRISE AND DISAPPOINTMENT SINCE IN HIS VIEW USE OF A PRIVATE ATTORNEY WOULD BE MOST EFFECTIVE MANNER IN WHICH TO PROCEED. AS AN ALTERNATIVE, HE OFFERED TO ASSIST A CONSULAR OFFICER IN WHATEVER MANNER HE COULD BEFORE THE COURTS.

B. GONI EXPLAINED THAT A CONSULAR OFFICER COULD TALK TO JUDGES AND OTHER COURT OFFICIALS ON MATTERS OF OFFICIAL CONCERN TO THE USG. "PERSONA JURDICA" IS IMPLICIT IN HIS OFFICER STATUS. SUCH ACTION BY CONSULAR OFFICER WOULD HAVE NO EFFECT ON IMMUNITIES.

C. MFA ROLE IN EXTRADITION PROCESS PURELY MECHANICAL ONE OF AUTHENTICATING SIGNATURES AND TRANSMITTING DOCUMENTS TO

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MINISTRY OF JUSTICE. OFFICE OF LEGAL AFFAIRS HAS NEITHER THE

AUTHORITY NOR THE CAPABILITY OF DETERMINING WHETHER THERE ARE POTENTIAL DEFECTS IN THE DOCUMENTATION; THIS SOLELY THE RESPONSIBILITY OF THE COURTS.

2. IN RESPONSE TO AN INQUIRY ON THE STATUS OF THE EXTRADITION REQUEST AGAINST YOLANDA SARMIENTO, GONI SAID THAT IT HAD JUST BEEN REJECTED BY THE COURT OF THE FIRST INSTANCE AND WAS NOW UP ON APPEAL. (ON FEB 12, THE COURT OF APPEAL REJECTED THE REQUEST FOR THE EXTRADITION OF FRANCOIS CHIAPPE, STATING THAT THE OFFENSES OCCURRED BEFORE 15 SEP 72, THE EFFECTIVE DATE OF THE TREATY. IN SO DOING, THE COURTS, AGAIN REFUSED TO RECOGNIZE UNDER ARGENTINE LAW THE IDEA OF CONTINUING CONSPIRACY.)

3. COMMENT. THE NARCOTICS COORDINATOR HAS OBTAINED GOA RECOGNITION AS A CONSUL AND WILL WORK CLOSELY WITH DR GONI ON FURTHER CASES. HOWEVER, GIVEN THE COMPLEXITIES OF ARGENTINE LAW ON EXTRADITION, AND THE MAZE OF CHANNELS FOR THE FLOW OF PAPER IN THE LOCAL COURTS, IT PROBABLY WILL BE NECESSARY FOR THE EMBASSY TO ENGAGE A PRIVATE ATTORNEY TO PROVIDE HIM WITH TECHNICAL ADVICE ON HOW, AND WITH WHOM, TO PROCEED. THE EMBASSY ALSO PLANS TO USE THE SERVICES OF A PRIVATE ATTORNEY TO ASSIST THE EMBASSY IN MAKING AN INHOUSE ASSESSMENT OF FUTURE EXTRADITION CASES TO ATTEMPT TO DETERMINE ANY POTENTIAL DEFECTS BEFORE PASSING THE REQUEST TO THE GOA.
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